HWC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
2008 JUL 28 AM 11:02
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY YNK DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Carlos Jesus BAEZ-Diaz,** Defendant	Magistrate Docket No. '08 MJ 2283 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **July 26, 2008** within the Southern District of California, defendant, **Carlos Jesus BAEZ-Diaz,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 28th DAY OF **JULY 2008**

Jan M. Adler
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Carlos Jesus BAEZ-Diaz

PROBABLE CAUSE STATEMENT

On July 26, 2008 Border Patrol Agents A. Ramos and V. Stanfill were conducting their assigned duties near Otay Lakes in Chula Vista California. At approximately 11:00 a.m. a passing motorist flagged them down near mile marker 10 on Otay Lakes Road and stated that he observed an individual walking west bound approximately two miles west of their location. The Agents began driving west bound in their marked service vehicle. Agent Ramos observed an individual walking along the south side of Otay Lakes Road near mile marker 8. This area is Northeast of the Otay Mesa, California Port of Entry.

Agent Ramos approached the individual and identified himself as a Border Patrol Agent. He then questioned the individual as to his citizenship and nationality. The individual, later identified as the defendant **Carlos Jesus BAEZ-Diaz**, stated that he is a citizen and national of Mexico without any immigration documents allowing him to enter or remain in the United States legally. The defendant stated that he had been walking for five days and that he crossed the border from Mexico into the United States near Tecate, California. Agent Ramos then placed the defendant under arrest and had him transported to the Chula Vista Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on June 10 , 2004** through **Nogales, Arizona**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.